

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

In the Matter of)
)
Implementation of the)
Subscriber Carrier Selection)
Provisions of the)
Telecommunications Act of 1996) CC Docket No. 94-129
)
Policies and Rules Concerning)
Unauthorized Changes of)
Consumers' Long Distance)
Carriers)

SEP 15 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company (SNET), respectfully submits its Comments addressing certain issues in the Further Notice of Proposed Rulemaking (Further Notice)¹. The Further Notice seeks comments on proposed modifications to the Federal Communications Commission's (Commission's) rules to implement Section 258 of the Telecommunications Act of 1996² regarding subscriber carrier selection changes.

SNET's comments respond to the Further Notice that seeks comments on the need for rules regarding PC freeze service.³

¹ Further Notice of Proposed Rulemaking and Memorandum Opinion and Order (Further Notice), Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, FCC 97-248, CC Docket No. 94-129, released July 15, 1997.

² 47 U.S.C. § 258, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (Act).

³ Further Notice, supra, pp. 14-16, paras. 21-24.

024

SNET's Comments focus on the high volume of customer complaints concerning unauthorized carrier changes, a practice commonly referred to as "slamming," and the demand from its customers for protection against these carrier changes which they did not authorize, nor want. The PC freeze service, available on an optional basis to SNET's customers, is the silver bullet that will stop slamming dead in its tracks. In this respect, the Commission has the opportunity, as well as responsibility, under Section 258 of the Telecommunications Act of 1996, to enforce Congress' intent toward customer protection against slamming by developing rules and regulations for PC freezes. The availability for customers to initiate a PC freeze will result in 1) customers being better able to maintain their carrier of choice, and 2) will ultimately result in the reduction of the escalating numbers of slamming complaints filed each year with the Commission.

I. Introduction

In 1985, when the Commission instituted rules regarding implementation of equal access,⁴ the intent was to stimulate and promote an environment to encourage the offering of competitive telecommunications services by new interexchange carriers. The

⁴ Memorandum Opinion and Order, Investigation of Access and Divestiture Related Tariffs, FCC 85-293, CC Docket No. 83-1145, Phase I, released June 12, 1985.

Commission envisioned opportunities for new providers to actively compete for customers by offering lower rates and innovative services. Competition for telecommunication services is flourishing in Connecticut and the state is 100% converted to equal access.

Unfortunately, interexchange carriers (IXCs) are using ingenious schemes to change the consumers' preferred carrier, without the customers' knowledge or consent. Over-zealous telemarketers, unscrupulous vendors, sweepstakes, contests, bonus checks and other such gimmicks are tools of the trade for certain IXCs whose intent is to lure unwitting consumers to sign on the dotted line simply to make the sale. That signature will result in the unintentional switching of the consumer's long distance carrier, and, most likely, higher rates and endless hours of telephone calls to get back to the consumer's carrier of choice.

In light of the escalating numbers of slamming complaints, both at the Commission, and in the State of Connecticut, consumers are clamoring for protection against this type of activity, and, that protection is the PC freeze option. SNET filed Comments⁵ and Reply Comments⁶ in the Petition for

⁵ SNET Comments in Opposition to MCI's Petition for Rulemaking, Policies and Rules Pertaining to Local Exchange Carrier "Freezes" on Consumer Choices of Primary Local Exchange or Interexchange Carriers, File No. CCB/CPD 97-19, RM-9085, filed June 4, 1997.

⁶ Reply Comments of The Southern New England Telephone Company, supra.

Rulemaking⁷ filed by MCI pertaining to local exchange carrier freezes to recommend that the Commission consider developing rules for PC freezes as part of its overall consideration of slamming issues. SNET again urges the Commission to adopt rules for the PC freeze option.

II. Slamming Complaints Continue to Rise Despite the Commission's Best Efforts at Rule Changes and Enforcement Proceedings.

Slamming complaints continue to be the highest complaint category at the Commission.⁸ In spite of the fact that IXC's are generally the perpetrators of the slamming activity, SNET continues to be served with all slamming complaints to the Commission by Connecticut consumers merely because of their LEC status as the keeper of the consumers' records. In 1996, the FCC Consumer Protection Branch served SNET with 119 complaints of slamming. Thus far, as of August, 1997, the Commission has served SNET with 151 slamming complaints. As this figure indicates, SNET will far surpass the total number of slamming complaints served in 1996.

⁷ Petition for Rulemaking filed by MCI Telecommunications Corporation, March 18, 1997, File NO. CCB/CPD 97-19, RM-9085.

⁸ Further Notice, supra, p. 7. Testimony of Commissioner Susan Ness Before the Subcommittee on Communications, Senate Committee on Commerce, Science and Transportation, United States Senate, Billings, Montana, August 12, 1997, p. 1, para. 3.

The best remedy, and ultimate cure, for the slamming problem is to give consumers control over their own telephone service. The PC freeze service can give consumers that control.

III. The Commission Has the Authority and an Obligation Under Section 258 to Initiate Rules for PC Freezes.

Although the 1996 Telecommunications Act does not specifically address issues surrounding PC freeze solicitation, Section 258 of the Act addresses Congress' intent of providing consumers with greater protection against slamming. The PC freeze service offers that very protection as a means of preventing slamming from occurring in the first place. The PC freeze service is designed as a tool to be used by, and for, consumers.

Certain IXCs have initiated a legal challenge to the LECs' PC freeze service.⁹ The PC freeze is a blocking option relating to a telecommunications service which should not be litigated in the courts. Rather, jurisdiction for this service belongs with the Commission, the same as other blocking options, such as 900 number and international call blocking, which have actually been mandated¹⁰ by the Commission. PC freezes or PC blocks offer

⁹ MCI Telecommunications Corporation v. The Southern New England Telecommunications Corporation, et al., No. 3:97 CV 00810 (AHN), Complaint, dated April 29, 1997; AT&T v. The Southern New England Telecommunications Corporation, et al., No. 3:97 CV 00810 (AHN), Complaint, dated May 30, 1997.

¹⁰ Report and Order, Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, FCC 93-349, CC Docket No. 93-22,

similar consumer protections as 900 number blocking and international call blocking which the Commission has previously deemed necessary in other proceedings.

In addition, the Commission has previously ruled on a similar PC verification process change in the formal complaint of RCI Long Distance (RCI) v. New York Telephone Company et al. In that complaint, RCI challenged New York Telephone Company's authority to institute a manual carrier change process for the payphones listed to the New York Transit Authority. This manual process was instituted due to repeated slamming incidents of the Transit Authority payphones. The Commission ruled that such a manual procedure does not violate the Communications Act or the Commission's rules because it does not interfere with a consumer's ability to change carriers, but simply removes the change out of the automated process.¹¹ This same conclusion must be reached in the issues surrounding PC freeze protection.

The PC freeze option was developed as a result of consumers' pleas for help in restoring control over their preferred carrier against unauthorized changes. PC freezes do not impede a

released August 13, 1993, p. 26, para. 60; Third Report and Order, Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, FCC 96-131, CC Docket No. 91-35, released April 5, 1996, p. 8, para. 8.

¹¹ Memorandum Opinion and Order, RCI Long Distance v. New York Telephone Company, et al., DA 96-1106, File Nos. E-94-69 and E-94-70, released July 11, 1996.

carrier's ability to solicit their services to a consumer or to remit a carrier change with the customer's authorization; a PC freeze merely protects the consumer against being slammed without their knowledge. Therefore, the Commission does, in fact, have a responsibility under Section 258 to protect the consumer against slamming violations by rendering rules governing PC freezes.

IV. SNET's PC Freeze is Available to Anyone That Requests it on a Non-Discriminatory Basis.

SNET began offering its PC freeze service to its customers in 1990 as a means to protect their interstate long distance service.¹² The service was instituted as a result of enormous customer demand for control over their interstate carrier against unauthorized carrier changes. PC freeze protection is optional to customers of any interstate or intrastate carrier's service. Other carriers can and do notify their customers of the availability of PC freezes from SNET.

Since 1996, Connecticut has been fully converted to intrastate equal access and the Connecticut Department of Public Utility Control has deemed intrastate toll service fully competitive under Connecticut law.¹³ In fact, there are well over

¹² SNET markets its PIC freeze service, known as Carrier Choice protection, to its long distance customers. Carrier Choice Protection is optional and is not a condition of SNET All Distance service.

¹³ Decision dated November 27, 1996 in Docket No. 96-06-23, Application of SNET for Approval to Reclassify Message Toll Service from the Non-Competitive Category to Competitive.

200 intrastate carriers certified to provide service within the State of Connecticut. In addition, over 50 other intrastate carriers are awaiting certification. It is clearly evident that competition has flourished within the state and has not been impeded in any way by the offering of SNET's PC freeze. Consumers are not prevented from initiating a carrier change of their choice. PC freezes simply afford consumers protection against a carrier executing a change without the knowledge and authorization of that consumer.

SNET does not limit the processing of PC freeze requests to only customers of SNET's services. All PC freeze requests for competitive interstate or intrastate carriers' customers are processed on a non-discriminatory basis. Therefore, as with other LEC blocking services, such as 900 number and international call blocking, SNET's PC freeze is offered on a non-discriminatory basis to any customer that requests such service.

V. No Factual Record Exists to Indicate that PC Verification Rules Should Apply to In-Bound Calls.

The Commission has proposed to extend the verification procedures for presubscribed interexchange carrier (PIC) change requests to consumer-initiated, in-bound calls to an IXC.¹⁴ Although the Commission has not proposed to extend these verification rules to other telecommunications carriers at this

¹⁴ Further Notice, pp. 25-28, paras. 44-51.

time, SNET recommends that the Commission conduct further research as to whether there is actual abuse of customer-initiated, in-bound verification practice and the exact extent of that abuse.

SNET recommends that the Commission conduct additional research, through the customer complaint process, to be done to determine whether the level of slamming abuse that occurs during out-bound calls has also extended to in-bound customer calls as well. Before the Commission imposes costly verification procedures for an infrequent occurrence, factual data should be explored to determine the extent of the problem, or, whether one actually exists at all.

VII. Conclusion

The increasing volume of customer complaints regarding slamming, along with the consumers' demand for protection against these unauthorized carrier changes, clearly indicates a demand for the PC freeze option. PC freezes, offered on a non-discriminatory basis, will curb incidents of slamming and significantly reduce slamming complaints to the Commission. Such consumer demand clearly indicates that the Commission has a responsibility, and an obligation, under Section 258 of the 1996 Telecommunications Act, to initiate rules for PC freezes.

Lastly, before the Commission imposes costly verification procedures on in-bound customer calls, factual research should be documented to determine the actual extent of the problem, or, whether a problem actually exists at all.

Respectfully submitted,

THE SOUTHERN NEW ENGLAND
TELEPHONE COMPANY

By: Wendy S. Bluemling
Wendy S. Bluemling
Director - Regulatory Affairs
227 Church Street
New Haven, CT 06510
(203) 771-8514

September 15, 1997